

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

JAMES W. SIMMONS

PLAINTIFF

v.

No. 5:13-cv-100-DPM

REX DAVIS; REUBEN MICHEL;
MARK GOBER, Sheriff; JERRY CLARKE;
ROBERT ROSEGRANT, Chief; DAVID OUTLAW;
STAN WITT, Colonel; JOEL HARPER, all
individually and in their official capacities;
DREW COUNTY; and CITY OF MONTICELLO

DEFENDANTS

ORDER

Simmons has sued Witt and Harper in their official capacities for injunctive relief. *№ 41*. They move to dismiss. *№s 43 & 46*. Accepting all Simmons's factual allegations as true, the Court holds that he has failed to plead a plausible claim. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Nowhere has Simmons alleged that Witt or Harper violated his constitutional rights pursuant to a governmental policy or custom, or that they wielded final decision-making authority against him in an unconstitutional manner. *Nix v. Norman*, 879 F.2d 429, 433 (8th Cir. 1989). The Court therefore dismisses Simmons's official-capacity claims against Witt and Harper without prejudice. Motions, *№s 43 & 46*, granted.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

15 September 2014